



DEFENSE LOGISTICS AGENCY
THE DEFENSE CONTRACT MANAGEMENT COMMAND
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IN REPLY
REFER TO AQOE

July 2, 1996

**MEMORANDUM FOR COMMANDERS, DEFENSE CONTRACT MANAGEMENT
DISTRICTS**

**SUBJECT: DCMC Memorandum No. 96-16, Release of Excess Funds Under Contracts
Terminated for the Convenience of the Government (INFORMATION)**

This is an INFORMATION Memorandum. It expires on June 30, 1997 unless sooner superseded or rescinded. Target Audience: Termination Contracting Officers.

The Naval Audit Service recently concluded an audit of contracts funded with multiple-year appropriations terminated for the convenience of the Government (Project 95-0035.) The audit results indicate the management of excess funds under Navy terminated contracts is not properly administered by the Navy's Procuring Contracting Officers (PCOs) or by DCMC's Termination Contracting Officers (TCOs). Specifically, excess Navy funds identified as available for immediate release by the TCOS are not deobligated by the Navy's PCOS in a timely manner, and TCOS did not consistently make timely determination and notification of excess funds.

TCOS are reminded of the requirement in FAR 49.105-2 to release excess funds within 30 days of receipt of the termination notice. In addition, TCOS should **deobligate** excess funds in a timely manner, rather than just **notifying** the buying activity of their availability, if delegated the responsibility. During the post termination conference, TCOS should request the contractor to provide an estimate of its termination costs to determine the amount available as excess under the contract. If this information is not provided, TCOS should make an initial determination based upon available information, e.g., contract price of items terminated or prior payments to the contractor.

TCOS are to maintain continuous surveillance to permit timely release of any additional excess funds as they become available. Report generator capabilities exist within the Termination Automated Management System (TAMS) to facilitate this process. TCOS should also look for key milestones in the termination process, such as receipt of the contractor's termination settlement proposal, so that they can determine if an interim release is appropriate. Final release should occur upon proper execution of a settlement agreement or nonappealable unilateral determination.

Questions on this memorandum maybe referred to Marie Garney, Payment, Closeout and Property Team at DSN 427-3447 or (703) 767-3447, Internet address: marie_garney@hq.dla.mil.



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Contract Management Policy